

APPEAL NO. 161817
FILED NOVEMBER 2, 2016

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 4, 2016, in (city), Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury in the form of an occupational disease on (date of injury); and that the claimant had disability from December 10, 2015, through the present. The appellant (carrier) appeals the hearing officer's determinations based on sufficiency of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Reversed and remanded for reconstruction of the record.

Section 410.203(a)(1) requires the Appeals Panel to consider the record at the CCH. The appeal file contains an audio recording lasting approximately 23 minutes which contains only the partial direct examination and cross-examination of one witness, (Dr. R), together with closing arguments of the parties. Preliminary matters, opening statements, direct and cross-examination of the claimant, the initial portion of Dr. R's testimony and the direct and cross-examination of another witness listed in the hearing officer's decision as having testified are not captured in the audio recording included as part of the appeal file. The file indicates that there was no court reporter present at the hearing and the file does not contain a transcript. The record of the CCH held in this case is incomplete and we, accordingly, reverse and remand this case to the hearing officer who presided over the CCH, if possible, for reconstruction of the record. See Appeals Panel Decision (APD) 060353, decided April 12, 2006.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Department of Insurance, Division of Workers' Compensation, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RICHARD J. GERGASKO, PRESIDENT
6210 EAST HIGHWAY 290
AUSTIN, TEXAS 78723.**

K. Eugene Kraft
Appeals Judge

CONCUR:

Carisa Space-Beam
Appeals Judge

Margaret L. Turner
Appeals Judge